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# **Judiciary Committee**

**Tuesday, March 28, 2006  
10:15 A.M. – 12:00 P.M.  
Morris Hall  
(17 HOB)**

## **Committee Action Packet**

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
David Simmons (Chair)	X		
Kevin Ambler	X		
Dennis Baxley	X		
Frederick Brummer	X		
Anitere Flores	X		
Dan Gelber	X		
Michael Grant	X		
Jeffrey Kottkamp	X		
Sheri McInvale	X		
Joe Pickens	X		
Juan-Carlos Planas	X		
Curtis Richardson	X		
Dennis Ross	X		
John Seiler	X		
<b>Totals:</b>	<b>14</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HB 129 : Lawful Ownership, Possession, and Use of Firearms and Other Weapons**

☒ *Temporarily Deferred*

### Appearances:

HB 129

Marion Hammer (Lobbyist) - Proponent

NRA & Unified Sportsmen of Florida

PO Box 1387

Tallahassee FL 32302

Phone: 850-222-9518

HB 129

Mark Wilson (Lobbyist) - Opponent

Florida Chamber of Commerce

136 South Bronough St.

Tallahassee FL 32312

Phone: 850-521-1209

HB 129

Bill Herrle (Lobbyist) - Information Only

Florida Retail Federation

227 South Adams Street

Tallahassee FL 32317

Phone: 850-222-4052

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 129**

COUNCIL/COMMITTEE ACTION

ADOPTED ☐ (Y/N)

ADOPTED AS AMENDED ☐ (Y/N)

ADOPTED W/O OBJECTION ☐ (Y/N)

FAILED TO ADOPT ☐ (Y/N)

WITHDRAWN ☐ (Y/N)

OTHER

☒ Temp. Postponed

Council/Committee hearing bill: Judiciary

Representatives Simmons and Baxley offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.--

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

21 (a) This section does not authorize carrying a concealed  
22 weapon without a permit, as prohibited by ss. 790.01 and 790.02.

23 (b) The protections of this section do not apply to the  
24 following:

25 1. A person who has been adjudged mentally incompetent,  
26 who is addicted to the use of narcotics or any similar drug, or  
27 who is a habitual or chronic alcoholic, or a person using  
28 weapons or firearms in violation of ss. 790.07-790.12, 790.14-  
29 790.19, 790.22-790.24.+

30 2. Vagrants and other undesirable persons as defined in s.  
31 856.02.+

32 3. A person in or about a place of nuisance as defined in  
33 s. 823.05, unless such person is there for law enforcement or  
34 some other lawful purpose.

35 (3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06  
36 do not apply in the following instances, and, despite such  
37 sections, it is lawful for the following persons to own,  
38 possess, and lawfully use firearms and other weapons,  
39 ammunition, and supplies for lawful purposes:

40 (a) Members of the Militia, National Guard, Florida State  
41 Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard,  
42 organized reserves, and other armed forces of the state and of  
43 the United States, when on duty, when training or preparing  
44 themselves for military duty, or while subject to recall or  
45 mobilization.+

46 (b) Citizens of this state subject to duty in the Armed  
47 Forces under s. 2, Art. X of the State Constitution, under  
48 chapters 250 and 251, and under federal laws, when on duty or  
49 when training or preparing themselves for military duty.+

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

50 (c) Persons carrying out or training for emergency  
51 management duties under chapter 252.†

52 (d) Sheriffs, marshals, prison or jail wardens, police  
53 officers, Florida highway patrol officers, game wardens, revenue  
54 officers, forest officials, special officers appointed under the  
55 provisions of chapter 354, and other peace and law enforcement  
56 officers and their deputies and assistants and full-time paid  
57 peace officers of other states and of the Federal Government who  
58 are carrying out official duties while in this state.†

59 (e) Officers or employees of the state or United States  
60 duly authorized to carry a concealed weapon.†

61 (f) Guards or messengers of common carriers, express  
62 companies, armored car carriers, mail carriers, banks, and other  
63 financial institutions, while actually employed in and about the  
64 shipment, transportation, or delivery of any money, treasure,  
65 bullion, bonds, or other thing of value within this state.†

66 (g) Regularly enrolled members of any organization duly  
67 authorized to purchase or receive weapons from the United States  
68 or from this state, or regularly enrolled members of clubs  
69 organized for target, skeet, or trap shooting, while at or going  
70 to or from shooting practice; or regularly enrolled members of  
71 clubs organized for modern or antique firearms collecting, while  
72 such members are at or going to or from their collectors' gun  
73 shows, conventions, or exhibits.†

74 (h) A person engaged in fishing, camping, or lawful  
75 hunting or going to or returning from a fishing, camping, or  
76 lawful hunting expedition.†

77 (i) A person engaged in the business of manufacturing,  
78 repairing, or dealing in firearms, or the agent or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

representative of any such person while engaged in the lawful course of such business.†

(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place.†

(k) A person firing weapons in a safe and secure indoor range for testing and target practice.†

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession.†

(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business.†

(n) A person possessing arms at his or her home or place of business.†

(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:

1. Are employed full time;
2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

138 contained shall be construed to authorize the carrying of a  
139 concealed firearm or other weapon on the person. This subsection  
140 shall be liberally construed in favor of the lawful use,  
141 ownership, and possession of firearms and other weapons,  
142 including lawful self-defense as provided in s. 776.012.

143 (6) STORAGE AND TRANSPORT OF FIREARMS LOCKED INSIDE OR  
144 LOCKED TO A MOTOR VEHICLE IN A PARKING AREA; PENALTY; IMMUNITY  
145 FROM LIABILITY.--

146 (a) As used in this subsection, the term:

147 1. "motor vehicle" means any automobile, truck, minivan,  
148 sports utility vehicle, motorcycle, motor scooter, or any other  
149 similar vehicle required to be registered under Florida law.

150 2. "employee" means any person who works for salary,  
151 wages, or other remuneration; is an independent contractor; or  
152 is a volunteer, intern, or other similar individual for an  
153 employer.

154 3. "employer" means any business that is a sole  
155 proprietorship, partnership, corporation, limited liability  
156 company, professional association, cooperative, joint venture,  
157 trust, firm, institution, or association, with employees.

158 4. "invitee" means any business invitee, including a  
159 customer or visitor lawfully on the premises.

160 (b) Except as provided in paragraph (e), no employer, or  
161 landlord of an employer, shall establish, maintain, or enforce  
162 any policy or rule that prohibits or has the effect of  
163 prohibiting an employee or invitee in lawful possession of a  
164 firearm from parking a motor vehicle on any property used for  
165 that purpose when the employee or invitee is lawfully in such  
166 area and the firearm is actually locked inside or locked to the  
167 motor vehicle, unless, at its own election, the employer, or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

168 landlord of the employer, provides the employee or invitee with  
169 the opportunity to:

170 1. check, store, or secure the firearm of the employee or  
171 invitee subject to reasonable conditions; or

172 2. park in an onsite area set aside by the employer, or  
173 landlord of the employer, for parking motor vehicles with a  
174 firearm locked inside or locked to the motor vehicle. In the  
175 event the employer, or landlord of the employer, elects to  
176 provide such onsite area, it shall be as convenient as other  
177 employee or invitee parking and shall not be marked or posted as  
178 a special parking area for such purposes; or

179 3. notify the employer, or landlord of the employer, or  
180 their designee, that the employee or invitee intends, from time  
181 to time, to be in lawful possession of a firearm locked inside  
182 or locked to a motor vehicle.

183 (c)1. No employer, or landlord of an employer, or employee  
184 imposing or implementing a policy under paragraph (b), shall be  
185 liable in any civil or other action for any harm that arises out  
186 of, or results from, directly or indirectly, the use or  
187 threatened use of a firearm that was being transported and  
188 stored by an employee or invitee and was locked inside of or  
189 locked to a motor vehicle on any property owned or leased by an  
190 employer, or landlord of an employer, and used for parking motor  
191 vehicles. The immunity provided in this sub-paragraph extends  
192 to the vicarious liability of an employer or landlord of an  
193 employer that arises out of, or results from, directly or  
194 indirectly, the use or threatened use of a firearm that was  
195 being transported and stored by an employee or invitee and was  
196 locked inside of or locked to a motor vehicle on any property  
197 owned or leased by an employer, or landlord of an employer, and

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

198 used for parking motor vehicles. The immunity provided in this  
199 sub-paragraph shall not apply to any person who uses or  
200 threatens to use a firearm or other weapon. The immunity  
201 provided in this sub-paragraph shall not apply if the harm  
202 involved was caused, in whole or in part, by the willful or  
203 criminal misconduct of the employer, or landlord of the  
204 employer, or a conscious and flagrant indifference to the safety  
205 of the person or persons harmed.

206 2. A civil fine of \$10,000, per aggrieved employee or  
207 invitee, shall be imposed for each violation of the prohibition  
208 in paragraph (b).

209 (d) It is the intent of this subsection to reinforce and  
210 protect the right of each law-abiding employee or invitee to  
211 enter and exit any property owned or leased by an employer, or  
212 landlord of an employer, and used for parking motor vehicles  
213 while the employee or invitee is lawfully transporting and  
214 storing a firearm in the motor vehicle and the firearm is locked  
215 inside or locked to the motor vehicle, to avail himself or  
216 herself of temporary or long-term parking or storage of a motor  
217 vehicle, and to prohibit any infringement of the right to lawful  
218 possession of the firearm when the firearm is being transported  
219 and stored inside or locked to a motor vehicle for a lawful  
220 purpose.

221 (e) The prohibition in paragraph (b) does not apply to:

222 1. property owned or leased by an employer, or landlord of  
223 an employer, upon which are conducted activities involving  
224 national defense, aerospace, or domestic security.

225 2. property owned or leased by an employer, or landlord of  
226 an employer, upon which a significant portion of the business  
227 conducted on such property involves the manufacture, use,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

storage, sale, or transportation of hazardous or ultra-hazardous materials regulated under state or federal law, including combustible or explosive materials.

3. a motor vehicle owned, leased, or rented by an employer, or landlord of an employer, or its agent.

4. any other property owned or leased by an employer, or landlord of an employer, where an employee or invitee is prohibited from having a firearm pursuant to any federal law or any existing state general law on the effective date of this act.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to lawful ownership, possession, and use of firearms; amending s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons; providing definitions; prohibiting specified employers and landlords of employers in certain circumstances from establishing, maintaining, or enforcing any policy or rule that prohibits certain employees and invitees from parking a motor vehicle on property set aside for such purpose when a secured firearm is being lawfully transported and stored in the motor vehicle; providing for specified immunity from liability; providing a civil penalty; providing intent; providing exceptions; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES  
Amendment No. 1A

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT ☒ (Y/N) (5/7)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary

Representative Kottkamp offered the following:

**Amendment to Amendment #1 by Representatives Simmons and  
Baxley**

Remove lines 167-198 and insert:

motor vehicle.

(c)1. No employer, or landlord of an employer, or employee  
imposing or implementing a policy under paragraph (b), shall be  
liable for any harm that arises out of, or results from, the use  
of a firearm that was being transported and stored by an  
employee or invitee and was locked inside of or locked to a  
motor vehicle on any property owned or leased by an employer, or  
landlord of an employer, and used for parking motor vehicles.  
The immunity provided in this

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary

Representative(s) Baxley & Kottkamp offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 790.251, Florida Statutes, is created  
to read:

790.251 Privacy and personal property protection; storage  
and transport of personal property locked inside or locked to a  
motor vehicle in a parking area; penalty; immunity from  
liability.--

(1) SHORT TITLE.--This act may be cited as the "Individual  
Personal Private Property Protection Act."

(2) LEGISLATIVE INTENT.--This act is intended to codify  
the longstanding legislative policy of this state that:

(a) Citizens have a constitutional right to privacy;

(b) Citizens have a constitutional right to possess and  
securely keep legal private property within their motor  
vehicles, particularly such property as is necessary for or  
incidental to their exercise of other constitutional rights; and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

21       (c) These rights are not abrogated by virtue of a  
22       citizen's becoming a customer, employee, or invitee of a  
23       business entity.

24       (3) LEGISLATIVE FINDINGS.--The Legislature finds that  
25       citizens' lawful possession, transportation, and secure keeping  
26       of certain private property within their motor vehicles is  
27       essential to the exercise of fundamental constitutional rights,  
28       including freedom of speech, freedom of association, the free  
29       exercise of religion, and to keep and bear arms. The Legislature  
30       finds that there is a compelling state interest to protect the  
31       fundamental private property rights of the citizens of Florida.  
32       The Legislature further finds that a citizen is not required and  
33       should not be required to waive or abrogate his or her right to  
34       possess and securely keep such constitutionally protected  
35       private property locked within his or her motor vehicle by  
36       virtue of becoming a customer, employee, or invitee of an  
37       employer or a business establishment within the state.

38       (4) DEFINITIONS.--As used in this section, the term:

39       (a) "Aggrieved person" means any customer, employee, or  
40       invitee as defined in this subsection.

41       (b) "Employee" means a person who works for salary, wages,  
42       or other remuneration; is an independent contractor; or is a  
43       volunteer, intern, or other similar individual for an employer.

44       (c) "Employer" means a business that is a sole  
45       proprietorship, partnership, corporation, limited liability  
46       company, professional association, cooperative, joint venture,  
47       trust, firm, institution, association, or public-sector entity,  
48       which has employees.

49       (d) "Invitee" means any business invitee, including a  
50       customer or visitor, who is lawfully on the premises.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

51       (e) "Motor vehicle" means any automobile, truck minivan,  
52 sports utility vehicle, motor home, recreational vehicle,  
53 motorcycle, or motor scooter, or any other vehicle, which is  
54 operated on the roads of this state and is required to be  
55 registered under Florida law.

56       (f) "Parking lot" means any property that is owned or  
57 leased by an employer, or a landlord of an employer, and used  
58 for parking motor vehicles and that is available to customers,  
59 employees, or invitees for temporary or long-term parking or  
60 storage of motor vehicles.

61       (5) PROHIBITED ACTS.--A public or private entity may not  
62 violate the constitutional rights of any customer, employee, or  
63 invitee as provided in this subsection:

64       (a) A public or private entity may not prohibit any  
65 customer, employee or invitee from possessing any lawfully held  
66 personal property if such property is locked inside or to a  
67 private motor vehicle in a parking lot when the customer,  
68 employee, or invitee is lawfully in such area.

69       (b) A public or private entity may not violate the privacy  
70 rights of a customer, employee, or invitee by verbal inquiry or  
71 actual search of a private motor vehicle in a parking lot. A  
72 search of a private motor vehicle may be conducted only by on  
73 duty law enforcement personnel and must comply with the due  
74 process requirements of the Constitution of the State of Florida  
75 and the United States Constitution.

76       (c) An employer may not condition employment upon  
77 preventing or prohibiting, or otherwise attempt to prevent or  
78 prohibit, any customer, employee, or invitee from keeping locked  
79 within the trunk, glove box, other enclosed compartment, or area  
80 out of sight within a motor vehicle any property or material the  
81 lawful possession of which is protected by, or the lawful use of





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# **Judiciary Committee**

**Tuesday, March 28, 2006  
10:15 A.M. – 12:00 P.M.  
Morris Hall  
(17 HOB)**

## **Committee Action Packet**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

which is incidental to, the exercise of individual rights protected under the United States Constitution and the State Constitution.

(d) An employer may not terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee, for exercising his or her constitutional right to keep and bear arms or the right of self-defense as long as a firearm is never exhibited on company property except for lawful defensive purposes.

This section applies to all public-sector employers, including those that are already prohibited from regulating firearms under s. 790.33.

(6) IMMUNITY FROM LEGAL LIABILITY.--An employer or a landlord of an employer is not liable in a civil action that arises, directly or indirectly, out of or results from the theft of or the threatened use or accidental or criminal use of a firearm or any other legal property that was stored in the private motor vehicle by a customer, employee, or invitee in a parking lot owned or leased by an employer or the landlord of an employer. The immunity provided in this subsection does not apply to a person who uses or threatens to use a firearm or other weapon in a criminal act. The immunity provided in this subsection does not apply if the harm involved was caused, in whole or in part, by the willful or criminal misconduct of the employer or the landlord of the employer.

(7) ENFORCEMENT.--The Attorney General shall enforce the protections of this act on behalf of an aggrieved person if there is reasonable cause to believe that the customer, employee, or invitee's rights under this act have been violated by a public or private entity and shall commence a civil or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

administrative action for damages, injunctive relief, or civil penalties, and such other relief as may be appropriate under the laws of this state pursuant to s. 760.51, or may negotiate a settlement with an employer on behalf of an aggrieved person.

(8) The prohibitions in subsection (5) do not apply to:

(a) Property owned or leased by an employer, or the landlord of an employer, upon which are conducted substantial activities involving national defense, aerospace, or domestic security if the presence of such private property in a parking lot presents an increased danger of explosion or reasonably predictable catastrophic event.

(b) Property owned or leased by an employer, or the landlord of an employer, upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law if the presence of such products in a parking lot presents an increased danger of explosion or reasonably predictable catastrophic event.

(c) A motor vehicle owned, leased, or rented by an employer, or the landlord of an employer, or its agent.

(d) Any other property owned or leased by an employer, or the landlord of an employer, if a customer, employee, or invitee is prohibited from having a firearm or other legal product pursuant to any federal law or any general law of this state existing on the effective date of this act.

(e) Any school property as defined and regulated under s. 790.115.

(f) Any prison-facility grounds as defined and regulated under s. 944.47.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

(g) Uses of firearms and other weapons which are prohibited under s. 790.25(2). The restrictions provided in that subsection are not affected by this section.

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after that date.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to the protection of constitutional rights; creating s. 790.251, F.S.; creating the "Individual Personal Private Property Protection Act"; providing legislative intent and legislative findings; defining terms; prohibiting a public or private entity from violating the constitutional rights of a customer, employee, or invitee by prohibiting or otherwise deterring that person from having certain lawful items locked in or to the person's private motor vehicle while it is in a parking lot or by discouraging exercise of the right to keep and bear arms; providing immunity from legal liability to an employer or landlord of an employer for certain acts arising out of another person's storing legal property in a private motor vehicle parked on the employer's or landlord's property; requiring the Attorney General to enforce this section on behalf of an aggrieved person; providing exceptions to the prohibitions imposed by the act; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary

Representative(s) Baxley & Kottkamp offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 790.251, Florida Statutes, is created  
to read:

790.251 PRIVACY AND PERSONAL PROPERTY PROTECTION, STORAGE  
AND TRANSPORT OF PERSONAL PROPERTY LOCKED INSIDE OR LOCKED TO A  
MOTOR VEHICLE; PENALTY; --

(1) LEGISLATIVE INTENT. -- This Act is intended to  
codify the long-standing legislative policy of this State that:

(a) Citizens have a constitutional right to privacy; and

(b) Citizens have a constitutional right to possess and  
securely keep legal private property within their motor  
vehicles, particularly such property as is necessary for or  
incidental to their exercise of other constitutional rights.

(2) LEGISLATIVE FINDINGS.--The Legislature finds that  
citizens' lawful possession, transportation, and secure keeping  
of certain private property within their motor vehicles is  
essential to the exercise of fundamental constitutional rights  
including due process of law, freedom from unreasonable searches

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

23 and seizures, freedom of speech, freedom of association, free  
24 exercise of religion, and to keep and bear arms. The Legislature  
25 finds that there is a compelling state interest to protect the  
26 fundamental privacy rights of the citizens of Florida.

27 (3) A public or private entity may not violate the  
28 privacy rights of a person either by inquiry or actual search of  
29 a private motor vehicle. A search of a private motor vehicle  
30 may only be conducted by on-duty law enforcement personnel and  
31 must comply with the due process requirements of the Florida  
32 Constitution and the Constitution of the United States.

33 (4) A public or private entity may not ask a customer,  
34 invitee, or employee to reveal what is contained within a  
35 private motor vehicle and a customer, invitee, or employee is  
36 not required to reveal what is contained within a private motor  
37 vehicle.

38 (5) For purposes of this section, "motor vehicle" means  
39 any automobile, truck, minivan, sports utility vehicle, motor  
40 home, recreational vehicle, motorcycle, motor scooter, or any  
41 other vehicle operated on the roads of this state required to be  
42 registered under Florida law.

43 (6) ENFORCEMENT.--The Attorney General shall enforce the  
44 protections of this act on behalf of an aggrieved person if  
45 there is reasonable cause to believe that the person's rights  
46 under this act have been violated by a public or private entity  
47 and shall commence a civil or administrative action for damages,  
48 injunctive relief, and/or civil penalties and other such relief  
49 as may be appropriate under the laws of this state pursuant to  
50 the provisions of s. 760.51, or may negotiate a settlement with  
51 any employer on behalf of any aggrieved person.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after that date.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to the protection of constitutional rights; creating s. 790.251, F.S.; providing legislative intent and legislative findings; defining terms; prohibiting a public or private entity from violating the privacy rights of a person either by inquiry or actual search of a private motor vehicle; providing that a search of a private motor vehicle may only be conducted by on-duty law enforcement personnel in compliance with constitutional protections; providing that a public or private entity may not ask a customer, invitee, or employee to reveal what is contained within a private motor vehicle; defining "motor vehicle"; requiring the Attorney General to enforce the act on behalf of an aggrieved person; providing for damages, injunctive relief, and civil penalties; providing an effective date.

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 285 : Emergency Management

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores			X		
Dan Gelber	X				
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson				X	
Dennis Ross			X		
John Seiler	X				
David Simmons (Chair)			X		
Total Yeas: 9      Total Nays: 0					

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HB 339 CS : Sexual Predators**

☒ *Temporarily Deferred*

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 497 : Medical Negligence

<input checked="" type="checkbox"/> Favorable					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler		X			
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber		X			
Michael Grant	X				
Jeffrey Kottkamp		X			
Sheri McInvale	X				
Joe Pickens	X				
Juan-Carlos Planas		X			
Curtis Richardson					X
Dennis Ross	X				
John Seiler		X			
David Simmons (Chair)	X				
Total Yeas: 8		Total Nays: 5			

### Appearances:

HB 497

Mike Huey (Lobbyist) - Proponent  
Florida Association of Blood Banks  
1125 Carriage Rd.  
Tallahassee FL 32312

HB 497

Dean R. LeBoeuf - Opponent  
Academy of Florida Trial Lawyers  
218 S. Monroe St.  
Tallahassee FL 32301  
Phone: 850-224-9403

HB 497

Jeanne Dariotis - Opponent  
Florida Association of Blood Banks  
Southeastern Community Blood Center  
Tallahassee FL 32308  
Phone: 850-877-7181

HB 497

Tom Guilday - Proponent  
Florida Association of Blood Banks  
Southeastern Community Blood Center  
Tallahassee FL 32308  
Phone: 850-877-7181

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HB 591 CS : Electronic Monitoring**

☒ *Temporarily Deferred*

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 595 : Community Behavioral Health Agencies

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber	X				
Michael Grant			X		
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens	X				
Juan-Carlos Planas	X				
Curtis Richardson				X	
Dennis Ross	X				
John Seiler	X				
David Simmons (Chair)	X				
Total Yeas: 12		Total Nays: 0			

### HB 595 Amendments

#### Amendment 1

☒ Adopted as Amended

#### Amendment 1a

☒ Adopted Without Objection

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 595**

COUNCIL/COMMITTEE ACTION

ADOPTED ☐ (Y/N)  
ADOPTED AS AMENDED ☒ (Y/N)  
ADOPTED W/O OBJECTION ☐ (Y/N)  
FAILED TO ADOPT ☐ (Y/N)  
WITHDRAWN ☐ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary  
Representative Cannon offered the following:

**Amendment (with title amendment)**

Remove lines 22-55 and insert:

Section 1. Section 394.9085, Florida Statutes, is created  
to read:

394.9085 Behavioral provider liability.--

(1) (a) In any negligence action for damages for personal  
injury or wrongful death arising out of the provision of  
services for crisis stabilization brought against a  
detoxification program, an addictions receiving facility, or a  
designated public receiving facility, net economic damages shall  
be limited to \$1 million per claim, including, but not limited  
to, past and future medical expenses, wage loss, and loss of  
earning capacity, offset by any collateral source payment paid  
in accordance with s. 768.76.

(b) In any negligence action for damages for personal  
injury or wrongful death arising out of the provisions of  
services for crisis stabilization brought against any  
detoxification program, an addictions receiving facility, or a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

designated public receiving facility, noneconomic damages shall be limited to \$200,000 per claim.

(c) Any costs in defending actions brought under this section shall be assumed by the provider or its insurer.

(2) The limitations on liability of a detoxification program, an addictions receiving facility, or any designated public receiving facility as described in subsection (1) shall be exclusive. These limitations apply to each employee of the provider when the employee is acting in furtherance of the provider's responsibilities under its contract with the department. These limitations do not apply to a provider or employee acting in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression if the act results in injury or death.

(3) The eligible provider under this section must, as part of its contract, obtain and maintain an insurance policy providing a minimum of \$1 million per claim and \$3 million per incident in coverage for claims described in subsection (1).

===== T I T L E   A M E N D M E N T =====

Remove lines 2-11 and insert:

An act relating to community behavioral health agencies; creating s. 394.9085, F.S.; providing that certain facilities or programs have liability limits in negligence actions under certain circumstances; limiting net economic damages allowed per claim; requiring that damages be offset by collateral source payment in accordance with s. 768.76, F.S.; requiring that costs to defend actions be assumed by the provider or its insurer; specifying occasions upon which the limitations on liability enjoyed by the provider

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1a

Bill No. **HB 595**

COUNCIL/COMMITTEE ACTION

ADOPTED ☐ (Y/N)  
ADOPTED AS AMENDED ☐ (Y/N)  
ADOPTED W/O OBJECTION ☒ (Y/N)  
FAILED TO ADOPT ☐ (Y/N)  
WITHDRAWN ☐ (Y/N)  
OTHER ☐

Council/Committee hearing bill: Judiciary

Representative Baxley offered the following:

**Amendment to Amendment #1 by Representative Cannon**

Remove line 16 and insert:

earning capacity. In computing net economic damages, they shall  
be offset by any collateral source payment paid

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 1057 : City of Jacksonville, Duval County

<input checked="" type="checkbox"/> Favorable					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler		X			
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber		X			
Michael Grant			X		
Jeffrey Kottkamp		X			
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson		X			
Dennis Ross	X				
John Seiler		X			
David Simmons (Chair)	X				
Total Yeas: 7		Total Nays: 5			

### Appearances:

HB 1057

Steven Rohan - Proponent

Deputy General Counsel, City of Jacksonville

City Hall

Jacksonville FL

Phone: 904-630-1672

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 1151 : Collier County

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores			X		
Dan Gelber	X				
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale				X	
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson			X		
Dennis Ross			X		
John Seiler	X				
David Simmons (Chair)			X		
Total Yeas: 8      Total Nays: 0					

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

Location: Morris Hall (17 HOB)

PCB JU 06-07 : Class Action Lawsuits

☒ Favorable With Amendments

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber	X				
Michael Grant			X		
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson	X				
Dennis Ross	X				
John Seiler	X				
David Simmons (Chair)	X				
Total Yeas: 12      Total Nays: 0					

### PCB JU 06-07 Amendments

#### Amendment 1

☒ Adopted Without Objection

#### Amendment 2

☒ Adopted Without Objection

#### Amendment 3

☒ Adopted Without Objection

### Appearances:

Class Action Lawsuits

William Large (Lobbyist) - Proponent

Florida Justice Reform Institute

210 S. Monroe Street

Tallahassee FL 32301

Phone: 850-222-0170

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# **COMMITTEE MEETING REPORT**

## **Judiciary Committee**

**3/28/2006 10:15:00AM**

**Location:** Morris Hall (17 HOB)

Class Action Lawsuits

Rayford Taylor (Lobbyist) - Proponent

Associated Industries of Florida

PO Box 191148

Atlanta GA 31119

Phone: 404-287-2390

Class Action Lawsuits

Ed Zebersky - Opponent

AFTL

4000 Hollywood Blvd.

Hollywood FL 33021

Phone: 954-989-6333

**Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB JU 06-07**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION **X** (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary

Representative Seiler offered the following:

**Amendment (with title amendment)**

Remove line(s) 15-17 and insert:

Section 1. Section 778.01, Florida Statutes, is created  
to read:

778.01 Capacity to sue. --

===== T I T L E A M E N D M E N T =====

On line 3 remove: "774.01" and insert: 778.01

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **PCB JU 06-07**

COUNCIL/COMMITTEE ACTION

ADOPTED                               \_\_\_ (Y/N)  
ADOPTED AS AMENDED               \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION       **X** (Y/N)  
FAILED TO ADOPT                   \_\_\_ (Y/N)  
WITHDRAWN                       \_\_\_ (Y/N)  
OTHER                               \_\_\_

---

1 Council/Committee hearing bill:   Judiciary

2 Representative Seiler offered the following:

3  
4       **Amendment**

5       Remove line(s) 31-34 and insert:

6  
7       maintain a class action seeking statutory penalties under  
8       chapters 320, 501, 520, and 521, F.S., the class must allege and  
9       prove actual damages. This section does not limit or restrict  
10      the ability of

11  
12  
13  
14  
15  
000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **PCB JU 06-07**

COUNCIL/COMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	<b>X</b> (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

---

1 Council/Committee hearing bill:      Judiciary

2 Representative Seiler offered the following:

3  
4      **Amendment**

5      Remove line(s) 5-8 and insert:

6  
7      providing exceptions;   providing requirements for statutory  
8      penalties; eliminating private class action recovery of  
9      statutory penalties; providing monetary relief;

10  
11  
12  
  
000000

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**PCB JU 06-08 : Sovereign immunity**

☒ *Favorable*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber		X			
Michael Grant			X		
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson	X				
Dennis Ross	X				
John Seiler		X			
David Simmons (Chair)	X				
<b>Total Yeas: 10</b>		<b>Total Nays: 2</b>			

### Appearances:

Sovereign Immunity  
Kraig Conn (Lobbyist) - Proponent  
Florida League of Cities  
301 South Bronough Street  
Tallahassee FL 32301  
Phone: 850-222-9684

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/28/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

### Summary:

#### Judiciary Committee

*Tuesday March 28, 2006 10:15 am*

HB 129 Temporarily Deferred

HB 285 Favorable Yeas: 9 Nays: 0

HB 339 CS Temporarily Deferred

HB 497 Favorable Yeas: 8 Nays: 5

HB 591 CS Temporarily Deferred

HB 595 Favorable With Committee Substitute Yeas: 12 Nays: 0

Amendment 1 Adopted as Amended

Amendment 1a Adopted Without Objection

HB 1057 Favorable Yeas: 7 Nays: 5

HB 1151 Favorable Yeas: 8 Nays: 0

PCB JU 06-07 Favorable With Amendments Yeas: 12 Nays: 0

Amendment 1 Adopted Without Objection

Amendment 2 Adopted Without Objection

Amendment 3 Adopted Without Objection

PCB JU 06-08 Favorable Yeas: 10 Nays: 2

Committee meeting was reported out: Tuesday, March 28, 2006 1:24:40PM